

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC; CAROLINE
RECORDS, INC.; EMI CHRISTIAN
MUSIC GROUP INC.; PRIORITY RECORDS
LLC; VIRGIN RECORDS AMERICA, INC.;
BEECHWOOD MUSIC CORP.;
COLGEMS-EMI MUSIC INC.; EMI APRIL
MUSIC INC.; EMI BLACKWOOD MUSIC;
EMI FULL KEEL MUSIC; EMI GOLDEN
TORCH MUSIC CORP.; EMI LONGITUDE
MUSIC; EMI VIRGIN MUSIC, INC.;
EMI VIRGIN SONGS, INC.,

Plaintiffs,

v.

MP3TUNES, LLC,

Defendant.

No. 07 Civ. 9931 (WHP)

NOTICE OF MOTION

MP3TUNES, LLC,

Counter-Claimant,

v.

CAPITOL RECORDS, LLC; CAROLINE
RECORDS, INC.; EMI CHRISTIAN
MUSIC GROUP INC.; PRIORITY RECORDS
LLC; VIRGIN RECORDS AMERICA, INC.;
BEECHWOOD MUSIC CORP.;
COLGEMS-EMI MUSIC INC.; EMI APRIL
MUSIC INC.; EMI BLACKWOOD MUSIC;
EMI FULL KEEL MUSIC; EMI GOLDEN
TORCH MUSIC CORP.; EMI LONGITUDE
MUSIC; EMI VIRGIN MUSIC, INC.;
EMI VIRGIN SONGS, INC., EMI GROUP,
LTD.; EMI GROUP NORTH AMERICA, INC.;
EMI GROUP NORTH AMERICA HOLDINGS,
INC.; AND EMI MUSIC NORTH AMERICA,
LLC.,

Counter-Defendants.

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the undersigned attorneys for Counter-Defendants, shall move this Court, before the Honorable William H. Pauley, United States District Court Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, New York, New York 10007, on January 16, 2009 at 12:00 p.m., for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure granting Counter-Defendants' motion to dismiss the counterclaims of Counter-Claimant MP3Tunes, LLC ("MP3tunes") and pursuant to Rule 26(c) to stay discovery on the counterclaims asserted by MP3tunes, and to grant all further relief the Court deems appropriate.

Dated: New York, New York
December 15, 2008

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TORCH MUSIC CORP.; EMI LONGITUDE
MUSIC; EMI VIRGIN MUSIC, INC.;
EMI VIRGIN SONGS, INC.,

Plaintiffs,

v.

MP3TUNES, LLC AND MICHAEL
ROBERTSON

Defendant.

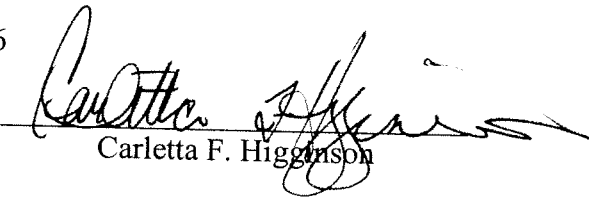
No. 07 Civ. 9931 (WHP)

CERTIFICATE OF SERVICE

I, Carletta F. Higginson, do hereby certify that on this 15th day of December, 2008 I caused the within *Notice of Motion* to be filed via this Court's Electronic Case Filing System and to be served via overnight mail delivery upon the following individuals and law firm(s):

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